

Application No. 09/746,045

Amdt. Dated: July 7, 2006

Reply to Office Action Dated: May 26, 2006

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### REMARKS/ARGUMENTS

#### Status of the Application

Claims 1-29 are pending in the application:

- Claims 1-7 stand rejected under 35 U.S.C. 103(a) as unpatentable of Girod in view of Livits.
- Claims 8 and 9 stand rejected under 35 U.S.C. 103(a) as unpatentable of Girod and Livits in view of Lin.
- Claim 10 stands rejected under 35 U.S.C. 103(a) as unpatentable of Girod in view of Livits.
- Claims 11-16 stand rejected under 35 U.S.C. 103(a) as unpatentable of Girod and Livits in view of Fitts.
- Claims 17-21 stand rejected under 35 U.S.C. 103(a) as unpatentable of Girod and Livits in view of Arita.
- Claim 22 stands rejected under 35 U.S.C. 103(a) as unpatentable of Girod and Livits in view of Fitts.
- Claim 23 stands rejected under 35 U.S.C. 103(a) as unpatentable over Rice in view of Girod and Livits.
- Claims 24-26 stand rejected under 35 U.S.C. 103(a) as unpatentable over Rice, Girod, and Livits in view of Kim.
- Claim 27 stands rejected under 35 U.S.C. 103(a) as unpatentable over Rice, Kim, Livits, and Girod in view of Fitts.
- Claim 28 stands rejected under 35 U.S.C. 103(a) as unpatentable over Girod in view of Bowling and Livits.
- Claim 29 stands rejected under 35 U.S.C. 103(a) as unpatentable over Girod in view of McTernan and Livits.

#### The Final Rejection

The Response to Argument section at pages 15-16 of the Office Action construes Applicant's argument as stating that Livits' movable housing has only two positions, and relying on the fact that Livits provides only limited movement of the housing relative to

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the user's body. The Office Action then concludes that the independent claims do not specifically relate "to the number of positions of movable housing relative to the user."

As will be described more fully below, the Office Action misconstrues both Livits and the nature of Applicant's argument.

#### The Livits Reference

Livits is directed to a computer input device that can be used as a keyboard or a pointing device. The keyboard includes multi-function keys. When used as a keyboard, a housing is mounted for rocking movements relative to a working support surface (e.g., a desk) or a stationary base. The housing is thus rocked between three stable positions so as to vary the function of the multi-function keys.<sup>1</sup>

In rejecting the present claims, the Office Action relies on Livits col. 3:18-23,<sup>2</sup> which states as follows:

In order to achieve the above objects, as well as others which will become apparent hereafter, a single hand controlled input device comprises a movable housing having remote and proximate portions relative to the position of the user of the input device.

Thus, the cited portion of Livits simply teaches that one part of the housing is relatively remote or farther from the user, while another part of the housing is relatively proximate or nearer to the user.

As shown in Livits Figure 1, the proximate portion 14 is a hand supporting surface. The remote portion 18 includes a keyboard 24 and trackball 30. The user operates the device by placing his or her hand on the hand supporting surface and rocking the device between the three positions relative to the support surface or its stationary base. Doing so varies the functions of the multi-function keys.<sup>3</sup>

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<sup>1</sup> See Livits at Abstract.

<sup>2</sup> See Office Action at pages 3, 11, 13, and 15.

<sup>3</sup> See, e.g., Livits at col. 3:23-28; col. 3:32-36; col. 5:13-25.

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### The Present Claims

The present application includes four (4) independent claims: claims 1, 23, 28, and 29. Independent claim 1 requires, in pertinent part, that

the control unit detects the position of the handheld device relative to a position of a user of the movable hand-held device in at least two-dimensions from the image data from the at least one light detector and translates the position to control a feature on a display, wherein a change in said feature corresponds to a movement of the movable handheld device relative to the user.

(emphasis added). Independent claims 23, 28, and 29 include similar limitations.

The Office Action correctly notes that this requirement is not satisfied by Girod, either alone or in combination with Rice, Bowling, or McTernan. The Office Action cites Livits column 3:1-23 to remedy this deficiency.

As discussed above, however, Livits merely discloses a housing having a first portion nearer to the user and second portion which is farther from the user. Livits does not disclose or suggest detecting the position of these portions -- or any other portions of the housing -- relative to position of the user as required by the present claims. Moreover, Livits does not disclose or suggest changing a feature on a display in correspondence with a movement of the handheld device relative to the user.

As the cited references fail to disclose or suggest each and every feature of the present claims, it is submitted that the Office Action fails to establish a *prima facie* case of obviousness.<sup>4</sup> For at least the foregoing reasons, it is submitted that independent claims distinguish patentably and non-obviously over the prior art of record.

In view of the above, the Office Action's reliance on *Keller*, *Merck*, and *Van Guens* are misplaced.

Dependant claims 2-22 and 24-27 are likewise patentable at least by virtue of their dependence from their respective base claims.

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<sup>4</sup> MPEP 2142.

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### CONCLUSION

In view of the foregoing, it is submitted that claims 1-29 distinguish patentably and non-obviously over the prior art of record. An early indication of allowability is earnestly solicited.

Respectfully submitted,

DRIGGS, HOGG & FRY CO., L.P.A.



John J. Fry Reg. No. 35,873  
Driggs, Hogg & Fry Co., L.P.A.  
38500 Chardon Road  
Willoughby Hills, Ohio 44094  
Phone: 1.440.391.5100  
Fax: 1.440.391.5101